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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re reissue application of)

FERNANDO J. ISAZA, ET AL.)

Serial No.: 09/811,104)

Filed: March 16, 2001)

U. S. Patent No. 5,881,717)

Issued: March 16, 1999)

For: SYSTEM AND METHOD FOR)
ADJUSTABLE DISCONNECTION)
SENSITIVITY FOR)
DISCONNECTION AND)
OCCLUSION DETECTION IN A)
PATIENT VENTILATOR)

Docket No. PURIT 54796

Los Angeles, California 90045

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JUL 01 2002

OFFICE OF PETITIONS

DECLARATION AND POWER OF ATTORNEY
FOR REISSUE APPLICATION

Commissioner for Patents
Washington, D.C. 20231

Sir:

We, Fernando J. Isaza, Stanley Y. Wong and Peter Doyle hereby declare:

We are the original and joint inventors of the subject matter which is described and claimed as amended in the application for reissue of U.S. Letters Patent No. 5,881,717 issued March 16, 1999, and entitled SYSTEM AND METHOD FOR ADJUSTABLE

DISCONNECTION SENSITIVITY FOR DISCONNECTION AND OCCLUSION
DETECTION IN A PATIENT VENTILATOR.

We hereby state that we have reviewed and understand the contents of the specification, including the claims as amended of the above-identified application for reissue.

We acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, Sec. 1.56(a).

All errors being corrected in the above-identified application for reissue up to the time of filing of this declaration under 37 CFR 1.175(a) arose without any deceptive intention on the part of the applicants.

We believe our original patent to be partly inoperative or invalid because of error without any deceptive intent on the part of the applicants, by reason of the fact that we claimed less than we had a right to claim in the original patent, the disclosure contains inaccuracies, and through error and without deceptive intent the patent failed to name as inventors Stanley Y. Wong and Peter Doyle for the subject matter of the claims as amended.

More particularly, it was error to include in Claim 1, for example, to recite "A method for detecting disconnection and occlusion of a patient tubing system of a pneumatically driven, electronically controlled ventilator system for providing breathing gas to a patient during the exhalation phase of a breath cycle," since this wording could be interpreted as meaning that the ventilator system provided breathing gas to a patient during the exhalation phase of a breath cycle, which is incorrect. The attorney handling the prosecution of the original application, through error, and without deceptive intent, failed to recognize that the invention does not require this limitation, and that it was unnecessary to define the invention and limit the scope of the invention in this manner.

It was also error to include in Claim 1 to recite the step of suspending gas flow delivery to the patient tubing system during the exhalation phase of the breath cycle. The

attorney handling the prosecution of the original application, through error, and without deceptive intent, failed to recognize that the invention does not require this limitation, and that it was unnecessary to define the invention and limit the scope of the invention in this manner.

It was also error to include in Claim 1, for example, the step of monitoring exhalation pressure in the patient tubing system during a plurality of control intervals of said exhalation phase of said breath cycle to determine whether a condition indicating occlusion of the patient tubing system has occurred, since the step of determining whether a condition indicating occlusion of the patient tubing system has occurred does not apply in the broadest sense of the invention to each of the criteria disclosed for detecting disconnection. The attorney handling the prosecution of the original application, through error, and without deceptive intent, failed to recognize that the invention does not require this limitation, and that it was unnecessary to define the invention and limit the scope of the invention in this manner.

It was also error to include in the disclosure at column 5, line 3, and in Claim 2, for example, the step of declaring disconnection of the patient tubing system has occurred if, during a control interval, the pressure in the exhalation line falls outside, or is less than or greater than, a predetermined pressure range, since it is clear from the disclosure in column 5, at lines 11-12, that the necessary condition occurs if, during a control interval, the pressure in the exhalation line is within the predetermined pressure range. The attorney handling the prosecution of the original application, through error, and without deceptive intent, failed to recognize that the invention does not require the limitation that the pressure in the exhalation line falls outside, or is less than or greater than, a predetermined pressure range, and that it was unnecessary to define the invention and limit the scope of the invention in this manner.

The attorney handling the prosecution of the original application, through error, and without deceptive intent, failed to recognize the above-described errors in the claims,

failed to recognize the inaccuracies in the disclosure, and failed to name as inventors Stanley Y. Wong and Peter Doyle.

The present declaration and amendments filed with the subject reissue application overcome the aforementioned defects of the original patent and correct the claims to provide the scope of protection to which we are entitled.

We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this reissue application or any patent issued thereon.

We hereby appoint the following attorneys to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

RICHARD A. BARDIN, Reg. No. 20,365, GILBERT L. KOVELMAN, Reg. No. 19,552, JAMES W. PAUL, Reg. No. 29,967, JOHN S. NAGY, Reg. No. 30,664 and DAVID G. PARKHURST, Reg. No. 29,422. Direct all telephone calls to David G. Parkhurst, at telephone number (310) 824-5555. Address all correspondence to:

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Full name of second inventor: STANLEY Y. WONG

Inventor's signature: _____

Date: _____, 2002

Citizenship: UNITED STATES OF AMERICA

Last known residence: Rancho Santa Margarita, California

Last known Post Office Address: 10 Grassy Knoll Ln.

Rancho Santa Margarita, California 92688-5568

Full name of third inventor: PETER DOYLE

Inventor's signature: _____

Date: _____, 2002

Citizenship: UNITED STATES OF AMERICA

Residence: Vista, California

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Vista, California 92083



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Inventor's signature: _____

Date: _____, 2002

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Residence: Carlsbad, California

Post Office Address: 3897 Woodvale Drive

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Inventor's signature: _____

Date: _____, 2002

Citizenship: UNITED STATES OF AMERICA

Last known residence: Rancho Santa Margarita, California

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Rancho Santa Margarita, California 92688-5568

Full name of third inventor: PETER DOYLE

Inventor's signature: *Peter Doyle*

Date: 13 May, 2002

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